

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7302 of 2007()

CRIME NO.230/2007 OF THE BADIADKA POLICE STATION

: PETITIONER/ACCUSED

1. O.P.IBRAHIM, S/O ABOOBACKER,
ARALADUKA HOUSE, NEKARAJE POST,
KASARAGOD.
2. SHAREEF, S/O IBRAHIM,
PONJOOR MOOLA HOUSE, NEKARAJE POST,
KASARAGOD.
3. GAFOOR, S/O MOIDEEN KUNHI,
ARALADUKA HOUSE, NEKARAJE POST,
KASARAGOD.
4. IQUBAL, S/O IBRAHIM,
PONJOOR MOOLA HOUSE,
NEKARAJE POST, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SHO BADIADKA POLICE STATION,
REP. BY PUBLIC PROSECUTOR,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.7302 of 2007

Dated this the 30th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 4. Altogether there are 4 accused persons. Crime is registered under Section 326 I.P.C. Petitioners belong to the I.U.M.L and the injured belong to the C.P.M. Political animosity is the alleged motive. The victim was allegedly attacked at 7 p.m on 11.11.2007 with dangerous weapon – stick. Grievous hurt was suffered by the victim. In that he allegedly loss of 2 teeth. Crime was registered on 12.11.07. Investigation is in progress. Petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are innocent. Political animosity is prompting the defacto complainant to make reckless allegations against the petitioners. There is delay in the lodging of the F.I statement. F.I statement was lodged only at 5 p.m on 12.11.07 though the incident took place at 7 p.m on 11.11.2007.

3. The learned Public Prosecutor opposes the application. The learned Public prosecutor submits that all the available

indications point to the complicity of the petitioners. The alleged delay in the lodging of the F.I statement can by no stretch of imagination be held to be a sufficient reason to invoke the extraordinary equitable discretion under Section 438 Cr.P.C in favour of the petitioners, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to perceive any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-

